

**MINUTES  
MIGRANT AND SEASONAL FARMWORKERS BOARD MEETING  
OCTOBER 29, 2003**

The Migrant and Seasonal Farmworkers Board meeting was held at 10:00 a.m. in House Room 1, State Capitol, Richmond, Virginia.

The following Board members were present: Kenneth Annis, Chairman; Mario Moreno, Vice Chairman; Hart Hudson; Richard Cagan; Sharon Saldarriaga; J. M. Scott; Tupper Dorsey; Richard Hall; Elisia Almendarez-Moore; and Veronica Donahue. The following Board members were absent: Kelly Robinson; Thomas Kellum; Adrian Reddington; Christian Schweiger; and Mary Bell Boltwood (on leave). DOLI staff present were C. Ray Davenport, Commissioner, and Betty Jenkins, Board Administrator.

**CALL TO ORDER**

The Chairman called the meeting to order at 10:05 a.m. He requested that any participant who wished to address the Board give his/her name and organization. He extended thanks to Board member and Grower Association member Rick Hall, who was instrumental in planning the July meeting held on the Eastern Shore; Ms. Jenkins for coordinating the meeting; Board members who attended; and the Vegetable and Potato Growers Association for hosting an Eastern Shore seafood dinner and meeting.

**APPROVAL OF AGENDA**

Mr. Moreno moved that the agenda be approved. Mr. Scott seconded the motion and the agenda was approved by a unanimous vote.

**APPROVAL OF MINUTES**

Mr. Dorsey moved that the minutes of the July 16, 2003 meeting be approved. Ms. Almendarez-Moore seconded the motion and the minutes were approved.

**PRESENTATIONS**

**Governor Warner's Office  
David Hallock, Deputy Counselor and Policy Assistant**

Mr. Hallock explained that he was asked to respond to the Board's concern about the scope of the MSFW Board's jurisdiction. He stated that the Governor encourages advisory boards to provide him any advice and counsel the board deems appropriate. He added that the MSFW Board is a statutory board, i.e., obligations are stated in the Code of Virginia, as opposed to a gubernatorial board. The Governor appreciates receiving any advice the majority of the Board or any constituents of the Commonwealth would offer. The Board has the right to submit advice on issues that may not be directly under its purview. He further discussed that the Governor would like to have the Board's recommendation on any Code of Virginia changes to the Board's name,

direction, or scope before the General Assembly begins the opening of the session on January 14, 2004. He noted there are bill review deadlines in December. He said the Governor would also like to know if the Board feels there are no changes necessary.

The Chairman explained that the Board is set up to provide services to migrant and seasonal farmworkers. He stated that recently there have been negative news articles regarding H2B (non-agricultural) workers who are referred to as migrant workers.

Mr. Hallock noted that currently there is no board or agency to hear or discuss issues which relate to non-agricultural immigrant workers. For this reason, Mr. Cagan felt that there is the possibility for embarrassment to this or any future administration. The Chairman felt that the Board's primary goal is to provide services to migrant farmworkers and that adding H2B issues would dilute the purpose of the Board. Mr. Dorsey added that the needs of both groups are similar. Mr. Moreno suggested that the Board discuss the issue and provide the Governor information at a later time. Given the current climate, Mr. Hallock felt it unlikely that another board would be created and stated that the Governor would like the Board's counsel on the scope of the MSFW Board being expanded or the Board's recommendation of any other agency to handle H2B issues.

There was discussion about the results of the JLARC study which is due on November 12.

Commissioner Davenport advised that the language issue remains a problem with no funding offered to help resolve the language barrier.

To a question on the transfer of the MSFW Board from the Department of Labor and Industry to the Virginia Employment Commission, Commissioner Davenport responded that the issue is still in the legislative process and there is no information concerning whether the Governor has made a decision to allow the legislation to move forward.

Commissioner Davenport added that the Governor had created a Latino Advisory Commission but did not know the scope of their jurisdiction. Ms. Lou Arnatt of the Secretary of the Commonwealth's Office responded that it is an advisory board created by Executive Order.

Mr. Dorsey commented that the current focus of the Board is agriculture and felt the make-up of the Board would need to change in order to address hotel, restaurant, seafood, and construction migrant worker concerns.

Mr. Dorsey stated that the H2B program is regulated by visas. However, Virginia has no oversight of these workers which appears to be the problem. Ms. Mary Bauer, Legal Director for the Virginia Justice Center, stated her office represents many H2B workers. She said that while the H2B program is federally approved, the level of oversight is less than the current oversight in the H2A program. Because the application does not ask for information on where workers will be housed, she stated that it is impossible to find these workers. It was her opinion that outrageous housing conditions exist, since there is no oversight of H2B workers. She added that no one in the government is checking

to see that workers have minimum standard housing.

The Chairman suggested that the Board notify the Governor that the Board has no authority over H2B workers. After discussion, Mr. Cagan made the motion (1) to notify the Governor and General Assembly about the gap in overseeing H2B worker issues (no board or agency has been tasked with this duty) and (2) to request a clarification of the MSFW Board's mission. The motion was approved.

Commissioner Davenport stated that although the JLARC study is due on November 12, it will not be delivered to the General Assembly until the first day of the 2004 Session in January.

**Virginia Department of Motor Vehicles**  
**Mr. Philip Vasquez, Deputy Commissioner**

Mr. Vasquez noted that the events of 9/11/01 indicated a breach in security in the way drivers' licenses were issued in Virginia; he added that seven of the terrorists had Virginia drivers' licenses. At that time, applicants were able to obtain drivers' licenses through affidavits. He explained that the terrorists came to this country lawfully and had legal presence at some point. He said the Governor asked him to join DMV to address the impact these security measures had on the immigrant and non-immigrant populations in Virginia.

DMV was asked to study the proposed legislation by the General Assembly. He oversaw a task force which studied the legislation and recommended that it would not be advisable to implement this legislation. The legislation was passed overwhelmingly by the Legislature. Although the originally proposed legislation would have required "everybody" to surrender their licenses at DMV and prove that they were lawfully here, a modified version was passed. A grandfather clause was added to allow all drivers and ID card holders to keep their cards and to allow driver's license holders to renew without legal presence proof, because of the costs to implement this type of program. The Governor requested that this legislation be implemented in a fair and equitable manner. On January 1, 2004, this legal (lawful) presence law will become effective.

Mr. Vasquez distributed copies of two DMV documents: (1) Questions and Answers on Virginia's Legal Presence Law (October 2003) and (2) Acceptable Documents for Obtaining a Driver's License or Photo Identification Card; he noted both are available upon request through email or regular mail by contacting his office.

The law requires applicants for a photo identification card to have two identification documents, one proof of legal presence and one proof of Virginia residency. Applicants for a Virginia driver's license must have two identification documents, one proof of legal presence, one proof of Virginia residency, and proof of social security number (if one has been issued).

The task force focuses on three principles of implementation: (1) Implementation should be carried out in an equitable manner; (2) applicants who qualify for a driver's license or photo ID card should receive them in an efficient and cost-effective manner; and

(3) public input in developing the implementation plan should be gathered. He cautioned that a driver's license should never be allowed to expire, as the applicant will have to prove legal presence. Teams were also created to cover policy, communication, computer systems, procedures, and training. A policy panel, consisting of five members of State Government and five members from the public, was appointed. DMV representatives who staff the customer service stations will be trained and be constantly gaining expertise in reviewing and determining the validity of immigration documents. He stated that the General Assembly provided DMV with \$400,000 for the program, but DMV determined it would cost \$1.2 million to implement. He added that Governor Warner was able to add \$2 million for the implementation. The Governor pledged to have the law implemented in a fair and equitable manner.

The panel was concerned that law enforcement officers might tend to target certain ethnic groups and created a policy whereby the officer must have his supervisor's signature on written documentation about the potentially illegal person. This notice is then submitted to DMV who will notify the person to come into DMV. Knowing that this person will probably not come into DMV, DMV will place a hold on the renewal and alert INS. He said that DMV will confiscate only those documents generated by Virginia. A public relations campaign is planned. They will have Legal Presence Specialists who will be highly trained in immigration law: two will be located in Northern Virginia; one in the Tidewater area; one in Southwest Virginia; and the program manager will be located in Richmond.

DMV has been working closely with the American Immigration Lawyers Association (ALIA) and the United States Citizen Immigration Service (USCIS), formerly INS, both of which are experts in immigration and the implementation of the law.

Mr. Vasquez encouraged anyone to call or email him with their questions. He stated DMV's goal is to serve all who are entitled to be served. He said all DMV representatives will be trained in legal presence and will have the benefit of the specialists.

## **INTERAGENCY MIGRANT WORKER POLICY COMMITTEE REPORT**

Commissioner Davenport called the Board members' attention to copies of the meeting minutes in their folders. Some issues discussed at the meeting were the study mandate, Resolution 604, and legal presence, which resulted in having Mr. Vasquez speak to Board members today.

## **AREA COUNCIL REPORTS**

Written reports from Harrisonburg Area Hispanic Services Council; Winchester Migrant Services Council; and LaRed Farmworker Council were received and emailed to Board members. Copies of these reports are available on request.

## **OLD BUSINESS**

Mr. Cagan announced that a Migrant Health Conference will be held in Natural Bridge

on November 12 with a workshop on Medicaid reciprocity; Ms. Elizabeth Copellar from the National Center for Farmworker Health will speak. The Chairman added that he participated in a teleconference call with Ms. Nancy Stern and recommended that reciprocity be placed on the agenda, as this issue is discussed often at both the Policy Committee and Board meetings.

## **NEW BUSINESS**

The Chairman introduced the new Board member, Ms. Veronica Donahue of Livingston, Virginia, who is replacing Mr. Daniel Chavez.

The Chairman said proposed legislation known as the Agricultural Job Opportunity Benefit and Security Act, Senate Bill 1645 and House Bill 3142, will allow immigrants to become legal over a period of time. This bill has received broad support from 11 Republicans and 10 Democrats. Mr. Scott noted that there is resentment in giving people legal status because they have been in this country not following the law for some time. He stated that a business which brings in H2A workers is required by law to pay more money than another business which may be using an illegal workforce. Mr. Moreno made a motion that the MSFW Board support the Agricultural Job Opportunity Benefit and Security Act, Senate Bill 1645 and House Bill 3142, with a letter to the Governor encouraging him to support it by mobilizing Congress to adopt it. The motion was seconded by Mr. Hall. The motion carried. Mr. Scott opposed the motion.

## **ITEMS OF INTEREST FROM BOARD ADMINISTRATOR**

Ms. Jenkins called the Board's attention to information she had provided in their folders.

The next **MSFW Board meeting** will be held at 10:00 a.m. on Wednesday, January 28, 2004.

Ms. Jenkins asked Ms. Almendarez-Moore to explain about the location for the January meeting. On behalf of her husband, Mr. Eddie N. Moore, Jr., President of Virginia State University, Ms. Almendarez-Moore invited the Board to hold their January meeting on the VSU campus. The Board accepted her gracious invitation.

The next **Migrant Policy Committee meeting** will be held at 10:00 a.m. on Tuesday, December 9, 2003, at the Department of Labor and Industry.

## **ITEMS OF INTEREST FROM BOARD MEMBERS**

Ms. Donahue spoke to the Board on the elimination of \$300,000 in migrant education funds from Virginia's budget. These funds, used to equalize access to education for Virginia's migrant children, have been in the budget since 1986. Due to the lack of funds, she noted some of the services no longer available: translation services to complete forms for migrant children to enroll in Head Start; tutoring for migrant children; access to computers for college aid; and materials for educating youths under age 22. She felt that these funds have helped to educate workers who have returned to help and educate other workers.

Commissioner Davenport stated that all appropriation actions must be submitted by late December.

After discussion, Mr. Dorsey made a motion to send a letter to the Governor encouraging him to take any action available to him to reinstate the migrant education funds of \$300,000 plus the additional \$150,000 recommended in the 2000 Migrant Worker Policy Committee Annual Report. Mr. Hall seconded the motion and the motion was carried.

Mr. Cagan distributed a booklet celebrating 50 Years of ministry to farmworker families by the Virginia Council of Churches.

### **PUBLIC COMMENTS**

Ms. Bauer introduced Ms. Christina Campbell who is an attorney with the Virginia Farmworkers Legal Assistance Project.

Ms. Maria Sanchez, who attended the meeting with Ms. Donahue, thanked the Board members for their interest in migrant farmworkers. Her husband is a crew leader and and over the years has experienced such problems as housing and inferior farm equipment.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 12:25 p.m.